

[case header] Case #No. 20-cv-11363-RGS

MOTION TO SUBMIT ONE EXHIBIT UNDER SEAL

On September 28, Defendant, President and Fellows of Harvard College (“Harvard” or the “University”), moved to file under seal three video file exhibits (Exhibits A, B, and C) in connection with Harvard’s Motion to Dismiss. As grounds for its motion, Harvard stated that “the video files contain nudity and potentially obscene matter that are not appropriate for filing on the public docket. Harvard will submit the three exhibits to the Court on a single compact disc.” The Court allowed Harvard’s motion.

Now comes the Plaintiff, Eric Clopper, who respectfully moves to file under seal one video file exhibit (Exhibit A) on a thumb drive in connection with the plaintiff’s Opposition to the Crimson’s Motion to Dismiss. This video file is a complete, unedited, and transparent account of what transpired in Sanders Theatre including the nude portion of the plaintiff’s play at issue in this litigation.

As grounds for this motion, it is imperative and in the interests of justice that the Exhibit be filed. The Plaintiff alleges in the Complaint that the Defendant The Crimson defamed him in several ways including calling his play a nude, anti-Semitic rant. The Crimson asserts that its publications were not defamatory. It is essential for the Court to see the play in order to rule on The Crimson’s Motion to Dismiss as it contains the required factual underpinning for Plaintiff’s defamation claim—and the claims ancillary to it.

Clopper is filing the Exhibit under seal as he performed his play once before a live audience of members of the Harvard community who were informed that it was for mature audiences and would contain nudity. Clopper anticipates that the Defendant Harvard would

assent to this video exhibit being filed under seal as well. Regardless, Clopper did not authorize anyone to copy any part of his play, including the part being submitted under seal, to be made available to the world.

Local Rule 7.1 Certification

Undersigned counsel hereby certifies that on November 2, 2020, he conferred with counsel for Defendant The Harvard Crimson concerning the request to seal. Counsel for The Harvard Crimson indicated that he would not assent to impoundment.

Respectfully submitted,

ERIC CLOPPER

By his attorney,

DocuSigned by:



Andrew DeLaney, ESQ.

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on November 2, 2020.

DocuSigned by:



Andrew DeLaney, ESQ.